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COURT SECURITY IN ONTARIO:

AN INTERIM REPORT

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Interim report of the  
Attorney General's Special  
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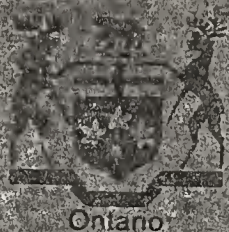
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# **Court Security in Ontario: An Interim Report**

Attorney General's  
Advisory Committee on  
Court Security

April 19 1982





JUL 05 1985

INTERIM REPORT  
OF THE  
ATTORNEY GENERAL'S  
SPECIAL COMMITTEE  
ON COURT SECURITY

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## INTRODUCTION

On March 24, 1982, the Attorney General, the Honourable R. Roy McMurtry, Q.C., announced the creation of a special committee to review security in court facilities. The committee is chaired by A. Rendall Dick, Q.C., Deputy Attorney General and consists of the Honourable W.G.C. Howland, Chief Justice of Ontario, the Honourable G.T. Evans, Chief Justice of the High Court, His Honour Chief Judge W.E.C. Colter, His Honour Chief Judge F.C. Hayes, His Honour Chief Judge H.T.G. Andrews, His Honour Senior Judge N.D. Coe, His Honour Senior Judge S.D. Turner, Robert Carter Q.C. (as an Elected Bencher of the Law Society of Upper Canada), Noel Ogilvie (as a Lay Bencher of the Law Society of Upper Canada), D.J.M. Brown (representing the Ontario Branch of the Canadian Bar Association), Brian H. Greenspan (representing the Criminal Lawyers' Association), Robert Lee Q.C. (representing the County of York Law Association), Michael E. Sullivan, Q.C. (representing the Advocates' Society) and from the Ministry of the Attorney General R.M. McLeod, Q.C., and B.W. McLoughlin. The Committee appointed as Special Advisors Inspector Stuart Pierce of the Ontario Provincial Police, Staff Inspector Tom Stewart of the Metropolitan Toronto Police, Sheriff





J.F. Bremner, R.S.G. Chester of the Ministry of the Attorney General, and Kenneth Jarvis, Q.C. of the Law Society of Upper Canada. Boris Krivy Q.C., acts as Secretary to the Committee. The Committee met in full on March 31, 1982, April 8, 1982, and April 15, 1982.

In reviewing the question of court security, the Committee derived great benefit from earlier internal analyses conducted during the 1970's dealing with security problems existing in various court facilities across Ontario.

This interim report represents only an overview of the Committee's deliberations. The background reports and studies on which it is based are not being released since to do so would eliminate the very essence of effective security. The Committee is however grateful to those officials and experts in Canada and elsewhere who generously contributed their knowledge and experience to its work.

#### THE CONFLICT OF PRINCIPLES

There is a real need for a balanced and realistic response to the problem of court security. Incidents may range from homicide or violent assault through to protest demonstrations or emotional outbursts; the amount of advance warning to incidents can also vary greatly. Likewise our responses to tragedies such as the Gans and Fonseca incidents can





range along a spectrum. At one end lies an understandable reaction to murder in the courts of justice. Critics argue that adequate security precautions ought to have been able to prevent those murders. The needs to preserve the integrity of the judicial process and the safety of person and property within the courts are thought to be self-evident. Security may be over-stressed if we value it above all else, if we rank the present danger to person and property so highly that our courts must be equipped with highly intrusive security precautions to such an extent that our courts become veritable "armed camps".

And at the other extreme lie competing principles.

Security should not overwhelm us. It should not be carried so far that it impairs the effective functioning of the courts. We should be reluctant to jettison our commitment to an open public court system. Public confidence in the fair and impartial administration of justice requires that trials take place in a public courtroom, unless there are extraordinary compelling policy reasons to the contrary. Moreover "armed camp" precautions could be a costly, and perhaps futile, response to exceptional incidents.

Advocates of this position note that historically violence has been a freak occurrence in Ontario courtrooms:

additional highly visible security precautions might provoke greater violence; the neutral aura of the court will be replaced by an impression of intimidation and





police control; no amount of security will suffice to deter or prevent the determined or demented individual, intent on violence. To that extent a judge or lawyer is as much at risk, or as little at risk, in the courthouse as on the streets outside.

These two positions are extreme. To establish "armed camps", or in effect to do little or nothing about security risks, would both be unacceptable responses. Sound policy lies between them. The committee has therefore attempted to determine what level of security is appropriate, and how such a level can best be achieved, consistent with both the need to preserve order and decorum, and our commitment to public justice.

#### CURRENT SECURITY PRECAUTIONS

After the deaths of Mr. Fonseca and Mr. Pannu on March 18 additional police precautions were brought into effect in the central Toronto court facilities. In Osgoode Hall itself, six officers and one corporal from the Ontario Provincial Police have been patrolling the public areas. Eight Metropolitan Toronto Police officers have been on duty in the other County and Supreme Court Buildings, five at the Metropolitan Toronto Courthouse at 361 University Avenue, the remainder at 145 Queen Street West. The Committee recommends that these precautions be continued





pending its final report and the conclusion of the police investigation into the Fonseca/Pannu killings.

In addition a comprehensive review of all Ontario court facilities will be conducted over the next few months to determine which pose unacceptable security hazards to the public, the judiciary, and the practising bar. This review will be conducted by police security experts and will involve consultation with individual members of the judiciary, court staff and County Law Associations. It may be necessary to make some structural alterations or close off some public entrances as a result of this review. At the time of the shooting of Mr. Gans in 1979, Sheriffs across Ontario were instructed to establish contact with police authorities in local centres so that procedures for emergency situations and for determining responsibility for on-site security might be developed. Because of the unique situation and design of every courthouse in Ontario, security arrangements will differ greatly in the various locations. These security arrangements will be reviewed over the next few months, and a special Security Co-ordinator appointed for each county; this will generally be the local Sheriff or a Sheriff's Officer. The local Bar will be fully informed about their role in security matters.





## A UNIFORMED PRESENCE IN COURT FACILITIES

Considerable security benefit may be derived from the permanent presence of uniformed police officers at entrances to the courts. Their presence may have a psychologically calming effect, defusing potentially explosive situations. Moreover in an emergency, they are on the spot, trained to respond to any eventuality. Their presence cannot be matched, even by specially trained court security officers.

Though the need to have police at court buildings to provide security is recognized as desirable, in recent years the police have been seeking to scale down their involvement in fulltime court security duty. The primary motivation is economic. When budgets are tight, choices have to be made about the allocation of resources. Moreover the assignment itself is not regarded within the police community as being especially productive or demanding.

We believe that the recent shooting incidents have served to underline the value of having uniformed police officers present at each court facility when courts are in session. These officers should be present at public entrances to the court buildings, rather than inside the courtrooms



themselves, where their presence might be inimical to the need to preserve fairness and neutrality in the administration of justice. There is no need for armed guards routinely sitting in our courts. The annual cost for providing a police officer to staff a court facility entrance in Metropolitan Toronto would be in excess of \$54,000. per year. A detailed study of each building would be required to determine how many officers were required, and what the unique problems of each facility were. Were the review to arrive at an additional officer requirement of 25 persons, the total cost would be in the range of \$1,300.000. This figure is a very rough and preliminary estimate of cost which will need to be refined in consultation with police and ministry staff.

#### COURT SECURITY SPECIAL TELEPHONE LINE

The effectiveness of our response to security threats in court facilities rests upon our ability to communicate the existence of a threat speedily to the police and the affected court staff. A centralized and co-ordinated system for handling information about such threats would make a major contribution towards an effective court security programme.





#### A SINGLE FOCUS

The key actor in the communications system is the Central Court Security co-ordinator, responsible for receiving telephone calls concerning threats to all court facilities in Metropolitan Toronto, notifying the Metropolitan Toronto Police directly, and contacting designated officials in the particular court facility to forewarn them.

#### THE SPECIAL TELEPHONE LINE

A set of special telephone lines have been installed with a so called unique business line with an easy to remember number. The number would be circulated to the Judiciary, the Bar, court officials, and others involved with the administration of justice for them to call if they believe that there may be a violent incident in a particular court room. The number would not be publicized generally.

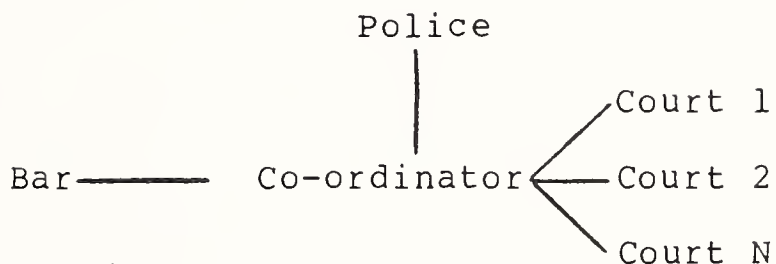
#### THE CO-ORDINATOR

Calls to the special telephone line are received by the Central Court Security Co-ordinator. The Co-ordinator function is expected to be carried out by a former police sergeant in the York County Sheriff's Office.





# DIAGRAM OF PROCESS



As the call from an individual lawyer comes in, the details are recorded on a special log-chart. The co-ordinator will contact Metropolitan Toronto Police Headquarters on Jarvis Street. In emergencies he will use the central police emergency number 911; for incidents with more "lead-time" he will contact the supervisory Sergeant in the Communications Bureau. This procedure is designed to enable the police to respond as expeditiously as possible. Since the co-ordinator will have the lists from each court facility at his disposal, he will be able to verify the precise location of any danger, and prevent the police from reporting to the wrong location. The special telephone line is to be manned 24 hours a day, 365 days a year.

After the police have been notified, the designated court official in the particular court facility will be contacted by the Co-ordinator. A separate network of special red telephones used only for security emergencies will be established. In each facility, four senior personnel would



be responsible for responding to calls from the co-ordinator: more than one individual will be designated so that if particular individuals were away from their office, at least one person would be available to respond. Designated personnel will be Registrars, Court Clerks or Court Administrators. Special training will be given to proposed security contacts. The designated court official would be responsible for notifying the presiding judge, alerting court staff in the particular court room, contacting on-site police or security officers, informing the chief judge or senior judge, and ensuring that the police are escorted directly to the court room concerned as soon as they arrive.

Much will depend on the amount of time available to respond to a given warning. In emergencies where time is of the essence, court officials may have to dial 911 themselves to contact the police. However the special telephone line channel would provide ready access for the Bar to relay concerns about impending cases which pose security threats.

#### ELECTRONIC EQUIPMENT

The Committee is continuing to examine other aspects of security precautions. We have started to consider seriously the possibility of installing various electronic scanning or surveillance devices, designed to detect metal





objects in major court centres. These include special walk-through metal detectors and metal sensitive wands designed for personal checking. Such devices are familiar to air-travellers, and have in fact been used in Ontario courtrooms, where there was reason to suspect violent attacks or outbursts. This equipment has proved effective in the past and would, of course, continue to be available whenever it was felt necessary.

We understand that such equipment is routinely used in some courthouses in the United States, though not in England, Northern Ireland or Canada. It must be borne in mind that to date Ontario has been faced with markedly different security problems from those faced by jurisdictions which face disruption of courts by terrorists or political groups.

We are reviewing the options available in the electronic scanning area and assessing the costs and benefits of each system. The clear benefit is the ability to detect metal weapons and thus ensure a great measure of protection for all who use the courts. Prominent among the costs would be the inconvenience to individual members of the public and the Bar, the possible lessening of the aura of neutrality surrounding the adjudication of disputes in the courts, and the financial and administrative costs of operating the equipment. Nevertheless, the effectiveness and



desirability of electronic equipment is under intensive study by the Committee. Consideration will also be given to reinforcing daises in some courtrooms.

#### OTHER ASPECTS OF SECURITY

Finally a number of other measures are being considered. These include the prior review of court lists each day to identify cases which have a greater likelihood of incidents of violence. Secondly court security staff may be instructed to conduct searches of courtrooms before each trial reconvenes. Lastly, special problems are posed by accused charged with certain types of offences and who have not been in custody returning from bail release: it may be necessary in particular cases to require as a condition of release that such accused report to a sheriff's officer just before trial commences or resumes, for search. The issue is a delicate one: it involves balancing the rights of an accused released from custody against the court's right to maintain order and safety for all.

#### THE RESPONSIBILITY OF THE BAR

By virtue of s.29 of the Law Society Act, every barrister in Ontario is an officer of the courts. As such his obligations extend beyond his duty to his clients. In appropriate cases, when lawyers suspect or are aware that a





particular case may become inflamed to the point of violence, they have a duty to notify the court authorities so that appropriate steps may be taken to protect the safety of all in the courtroom. In Metropolitan Toronto this duty may be discharged by notifying the Court Security Special Telephone Line. Outside Toronto, counsel should notify the local security co-ordinator. In any emergency situation, counsel should contact directly the police through emergency numbers. The co-operation of the profession is an indispensable ingredient in any effective security system.

The Law Society of Upper Canada provides an effective vehicle for notifying members of the Bar of their responsibilities and through the Secretary, the Society has agreed to communicate to the practising bar details of any recommended emergency procedures. This information will also be communicated to new members of the Bar. In addition the Court Security Special Telephone Line will be listed in the Toronto Legal Directory and the Lawyer's Phone Book. We recommend that a major programme take place to notify the Bar of security procedures and to remind each lawyer of his or her personal responsibility as an officer of the court.







